

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 471 of 1984

in

FIRST APPEAL No 654 of 1980

with

LETTERS PATENT APPEAL No 472 of 1984

in

FIRST APPEAL NO. 655 of 1980

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

and

MR.JUSTICE A.L.DAVE

=====

1. Whether Reporters of Local Papers may be allowed : YES  
to see the judgements? No
2. To be referred to the Reporter or not? No :
3. Whether Their Lordships wish to see the fair copy : YES  
of the judgement? No
4. Whether this case involves a substantial question : YES  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder? No
5. Whether it is to be circulated to the Civil Judge? No :

-----  
SIMON VENDALIN

Versus

MERRYBEN W/O JEROMBHAI VENDALIN

-----  
Appearance:

1. LETTERS PATENT APPEAL No. 471 of 1984  
MR SB VAKIL for Appellants  
MR SN SHELAT with MR PG DESAI for Respondents
2. LETTERS PATENT APPEAL No 472 of 1984  
MR SB VAKIL for Appellants



thereon at 18% per annum till payment.

2. The aforesaid amount shall be paid by A/c. payee cheque in the name of Babubhai V. Christian on behalf of the branches of all the three brothers, Simon Babu and the late Roman. On such payment being made to Babubhai the liability of the respondents hereinbefore provided shall stand discharged.

Babubhai agrees and undertake to this Hon'ble Court that he shall pay to Simon and Roman's branch their respective shares in the amount's to be received by him hereunder. If before the appellants have paid to the respondents the full amount agreed upon hereinbefore, the respondents desire to raise moneys by transfer in any manner of the suit property or any part thereof, the appellants shall give their consent or confirmation of such transfer on condition that the transferee shall pay to Babu the consideration for transfer or such part thereof as is necessary to pay to the appellants amount due to them. Simon, Kirpa and her sons Wilson and Linush shall give within 15 days hereof a power of attorney in favour of the appellant. Babu to receive payment on their behalf as aforesaid and to consent to or confirm on their behalf any transfer of the suit property as herein before provided.

3. The appellants agree and undertake to this Hon'ble Court that they or any of them shall not, pending implementation of these terms, and the decree to be passed pursuant thereto transfer, alienate or part with any right, title, share or interest claimed by them in the suit property or part with possession of the suit property or any part thereof in favour of any third party. Agreed that within a period of three months from the receipt of the full amount hereinbefore provided the appellants undertake to vacate and hand over vacant and peaceful possession of any part of the suit property occupied by or in possession of them or any of them.

4. Agreed that the decrees dated 4.9.1984 passed by this Hon'ble Court (Coram: G.T.Nanavati, J.) in First Appeals No.654 and 655 of 1980 arising from original suits No. 1759 of 1973 and 1248 of 1975 of the City Civil Court at Ahmedabad be set aside and a decree be passed in terms hereof in the said suits.

Agreed that there would be no order as to costs throughout.

Ahmedabad.

29th October, 1999 Appellants.

1. SIMON VENDALIN
2. BABUBHAI VENDALIN
3. Heirs and Legal Representative  
of Roman Vendalin.
- 3/1. KRIPA ROMAN CHRISTIAN
- 3/2. WILSON ROMAN CHRISTIAN
- 3/3. LINUSH ROMAN CHRISTIAN

ADVOCATE FOR THE  
APPELLANTS.

RESPONDENTS

1. KIRITBHAI JEROMBHAI
2. PIYUSHBHAI JEROMBHAI THROUGH  
HEIRS
- 2/1. MARRYBEN ALIAS LATABEN, WIFE  
OF DECEASED PIYUSHBHAI
- 2/2. MINOR MANISH SON OF  
PIYUSHBHAI Through their  
natural guardian  
Manish Piyush Jerome  
Marry Piyush Jerome  
Marshal Piyush Jerome  
Mary Piyush Jerome
- 2/3. MINOR MARSHAL SON OF  
PIYUSHBHAI Through their  
natural guardian
3. NIRMALABEN JEROMBHAI
4. SUSHILABEN JEROMBHAI
5. STELLABEN JEROMBHAI
6. JOSEPH JEROMBHAI
7. LUSIBEN JEROMBHAI.

ADVOCATE FOR THE RESPONDENTS."

3. In Civil Application No.12796/99 which was filed in Letters Patent Appeal No. 471/84 as well as in Civil Application No. 12799/99 which was filed in Letters Patent Appeal No. 472/84, the Court by an order dated November 1, 1999 has granted leave to Marryben alias Lataben, widow of deceased Piyushbhai to enter into compromise on behalf of minor Manish Piyushbia and minor Marshal Piyushbhai after recording satisfaction that the compromise is in the interest of minors. The parties to the appeals had stated to the Court on October 29, 1999 that they were explained the consent terms and the terms were acceptable to them. As the parties to the appeals were willing to enter into compromise for the subject matter of appeals, they have signed the same. The consent terms are also signed by the learned Counsel for the parties. We are satisfied that the appeals have been adjusted wholly by lawful compromise. The consent terms are, therefore, ordered to be taken on record of the

above-numbered two appeals. As agreed between the parties, two decrees dated September 4, 1984 rendered by the learned Single Judge in First Appeals No.654/80 and 655/80 arising from Original Suit No.1759/73 and 1248/75 of the City Civil Court at Ahmedabad are hereby set aside and the Office is directed to draw decree in terms of the consent terms which are reproduced hereinabove. The two Letters Patent Appeals are disposed of in view of the consent terms. There shall be no orders as to costs throughout.

\*\*\*\*\*

(patel)